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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DOLORES TROILO, *ET AL.*,

Plaintiffs,

v.

RICHARD MICHNER, *ET AL.*,

Defendants.

NOTICE OF REMOVAL

To: Clerk
Superior Court of New Jersey
Law Division - Cape May County
9 North Main Street
Cape May Court House, NJ 08210

Jennifer M. Perez, Esq.,
Acting Clerk
Superior Court of New Jersey
Hughes Justice Complex
P.O. Box 971
Trenton, New Jersey 08625

Jennifer L. Emmons, Esq.
Locks Law Firm LLC
457 Haddonfield Road
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Dominic A. DeLaurentis,
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Stahl & DeLaurentis, P.C.
10 E. Clements Bridge Rd.
Runnemede, NJ 08078

Steve Drake, Esq.
Reynolds & Drake
29 North Shore Road
Absecon, NJ 08201

Thomas Crammer, Esq.
508 New Jersey Ave. #3B
Absecon, NJ 08201

PLEASE TAKE NOTICE that this case, previously pending in the Superior Court of New Jersey, Law Division, Cape May County, Docket Number CPM-L-0028-12, is hereby removed to the United States District Court for the District of New Jersey, pursuant to the provisions of 28 U.S.C. § 2679(d) and 28 U.S.C. § 1442(a)(1), and that pursuant to 28 U.S.C. § 2679(d)(2), the United States of America is substituted for Mary Herron, N.P.; Cathy Geria, A.P.N.; and Community Healthcare, Inc. d/b/a CompleteCare Health Network (named in the complaint as Complete Care Women's Center) (collectively, the "Federal Defendants") with respect to all of the claims set forth against those parties in the complaint. The United States of America, by and through its attorney, Paul J. Fishman, United States Attorney for the District of New Jersey (David Bober, Assistant United States Attorney, appearing), respectfully states that the grounds for this removal and substitution are:

1. The Complaint was filed in the New Jersey Superior Court, Law Division, Cape May County, Docket No. CPM-L-0028-12, on or about January 11, 2012. See Exhibit A (State Court Complaint). Service of process has not been effected upon the Federal Defendants in the manner specified in and required under Fed. R. Civ. P. 4(i).

2. Plaintiffs Dolores Troilo and Korey Sloan, as administrators of the estate of Daven Sloan; and Dolores Troilo and

Korey Sloan, in their own right, seek damages from the Federal Defendants, alleging that the Federal Defendants were negligent in the course of providing prenatal care and assisting in the delivery of Troilo's child, Daven Sloan, who died during delivery.

3. At all times relevant to this Complaint, the Federal Defendants were deemed employees of the United States pursuant to 42 U.S.C. § 233(g). See Exhibit B (Declaration of Meredith Torres, dated January 11, 2013).

4. This action is deemed to be an action against the United States because the Federal Defendants were acting within the scope of their employment as employees of the United States pursuant to 28 U.S.C. § 2679(d) and 42 U.S.C. § 233(c). See Exhibit C (Certification of Scope of Employment).

5. Sections 233(a) and (g) of Title 42 of the United States Code, as amended by the Federally Supported Health Centers Assistance Act of 1995 (Public Law 104-73), and Section 2679(b) of Title 28 of the United States Code, as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988 (Public Law 100-694), provide that the Federal Tort Claims Act ("FTCA") is the exclusive remedy for tort claims against the United States.

6. The United States District Courts have exclusive jurisdiction over tort actions filed against the United States under the FTCA. 28 U.S.C. § 1346(b).

7. THEREFORE, in accordance with 28 U.S.C. § 1442(a)(1) and 28 U.S.C. § 2679(d), the above-captioned action brought in the Superior Court of New Jersey, Law Division, Cape May County is now removed to this Court and the United States of America has been substituted for defendants Mary Herron, N.P.; Cathy Geria, A.P.N.; and Community Healthcare, Inc. d/b/a CompleteCare Health Network. This Notice of Removal will be filed with the Clerk of the New Jersey Superior Court, Law Division, Cape May County, and will be served on all parties in accordance with 28 U.S.C. § 1446(d). See Exhibit D (Letter to Clerk of New Jersey Superior Court).

Dated: Trenton, New Jersey
March 29, 2013

PAUL J. FISHMAN
United States Attorney

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